IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
APPELATE CIVIL JURISDICTION

WRIT PETITION NO.724 OF 2005

Shyam Shankar Maurya & Ors. ..Petitioners
Vs.
State of Maharashtra & Ors. ..Respondents

Mr.Mihir Desai for Petitioners
Mr.Pradeep Jadhav , A.G.P. for Respondent Nos.1 & 3
Mr. V.A.Thorat Senior Advocate with Mr. G.D. Utangale for Rspondent No.2
Mrs. N.V. Sanglikar for Respondent No.4
Mr. M.S. Ahmed for Respondent No.5
Mr. D. Nawale for Respondent No.6

CORAM: F.I. REBELLO &
S.P. KUKDAY, JJ.
DATE: 5TH APRIL, 2005.

P.C.

. Rule. Heard forthwith.

. There is a plot of land identified under CTS No.117 admeasuring 20547.38 sq. mtrs. The case of the Petitioners is that they have structures on the said plot. All together there are over 2000 structures. An Association of Slum Dwellers namely Respondent No.5 to sanction SRA scheme was formed in the year 1998. On 11th March, 1998 an application was made for Annexure-II which showed 757 structures. On 20th June, 1998 Annexure-II was granted, by which 411 were found to be eligible. On 11th August, 1998 of the 346 who had been held ineligible their names were once again forwarded with further details. On 12th November, 1998, 164

additional names were found to be eligible.

. Architect appointed by Respondent No.5 carried out a survey on 26th February, 2004 and informed that out of the entire land only an area admeasuring 9500 sq. mtrs. would be the subject matter of the SRA Scheme. On 29th May, 2004 L.O.I. was granted in which 226 persons were held to be eligible.

2. It is the case of the Petitioners that out of these 226 persons who have been held to be eligible, the names of atleast 22 persons were different from the actual names mentioned in the electoral rolls. In respect of certain persons, eligibility of certain recommendation is shown despite two of the persons occupying the same structure is as per the electoral rolls. Seventeen eligible persons whose names were in the electoral roll their names are not included in Annexure-II. Similarly persons having ration cards much prior to 1995 their names are not appearing in Annexure-II. Atleast three persons held to be eligible are mentioned or anywhere else in the plot. The further submission is that though the Additional Collector, earlier had found 575 persons as eligible. Considering the entire area of 20547 sq. mtrs. no exercise has been done after the area was reduced to 9500 sq. mtrs. This is pointed out to contend that

in respect of the area of 9500 sq. mtrs. to the Additional Collector who must identify the eligible persons and the structures and the Respondent no.2 could not have identified the persons and included their names in the Annexure-II.

3. Arguments have also been advanced on behalf of Respondent no.2 and Respondent no.5.

4. The scheme of the Act and the regulations framed required that the Additional Collector encroachment must identify the names of the eligible persons though an exercise has been done earlier in respect of the area admeasuring 20547 sq.mtrs. No exercise has been done of 9500 sq. mtrs. which was carved out from that area. Considering that in our opinion the L.O.I. granted would be without jurisdiction.

5. The scheme however, is for the benefit of rehabilitation of those who are eligible. It is not as if all the persons would be ineligible, considering that an earlier exercise had been done the Additional Collector now will have to identify as to who are the eligible persons on the area of 9500 sq. mtrs. which has now been identified by the Architect, as the area on which the SRA scheme can be implemented. Considering the above in our opinion the ends of justice would be met, ifthe

following terms and conditions are imposed:-

(i). The Additional Collector, encroachment to identify the number of persons who are eligible under the S.P.A. scheme in the area of 9500 sq. mtrs. for which a scheme can be sanctioned. On so identifying the Respondent no.2 to amend the L.O.I.to include those persons who are eligible and so found by the Additional Collector, Encroachmental exclude those who are not eligible.

(ii). In the event any of the persons are eligible but their case has been rejected, it will be open to them to prefer an appeal before the competent authority.

(iii). Considering the contentions by the Petitioners herein that some of the persons found eligible in fact are not eligible and others are also eligible the Additional Collector to consider the said objections, while identifying the persons to be eligible in the S.R.S. Scheme.

(iv). The Additional Collector may seek the assistance of the City Survey Officer to identify the demarcated land which is available in the S.R.S. scheme.

(v). Apart from the persons eligible Additional

Collector also to identify the structure on the land which are eligible in the S.R.S. scheme.

(vi). The entire exercise to be completed within five months from today. Pending the decision by the Additional Collector, the Respondent no.2 shall not grant any approval for development in terms of the S.R.A. Scheme.

(vii). The commencement of the work on the plot will not be commenced till the Additional Collector, Encroachment carries out the survey of the structure on the plot identified.

(viii). Respondent No.5 before the work proceeds to file an undertaking in this Court that in respect of those of their members who are found to be ineligible no premises would be allotted. Further in the event of any other persons who are not eligible such persons will be alloted premises in terms of the S.R.A. scheme which is to be sanctioned. It is only on such compliance of the the above conditions, can the construction commences on the plot.

. With the above discussion Rule made absolute accordingly. No order as to costs.

(F.I.REBELLO,J.)

(S.P. KUKDAY,J.)